



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/543,663	04/05/2000	Roland Lamer	15-IS-5288(70191/235)	7305

7590 05/03/2006
Joseph D. Kubborn
Andrus, Scales, Starke, & Sawall
100 East Wisconsin Ave.
Ste 1100
Milwaukee, WI 53202

EXAMINER

FRENEL, VANEL

ART UNIT PAPER NUMBER

3626

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/543,663

Applicant(s)

LAMER ET AL.

Examiner

Vanel Frenel

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-8,10,11 and 22-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-8, 10-11, 22-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the Amendment filed on 10/11/05. Claims 1-3, 5-8, 10-11 and 22-31 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5-8, 10-11 and 22-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ribitzky (6,363,393) in view of Evans et al (6,266,675), for substantially the same reasons given in the prior Office Action, and incorporated herein. Further reasons are presented hereinbelow.

Response to Arguments

4. Applicant's arguments filed on 10/11/05 with respect to claims 1-3, 5-8, 10-11 and 22-31 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed on 10/11/05.

(A) At pages 2-5 of the 10/11/05 response, Applicant's argues the followings:

(1) Ribitzky does not teach a first component and a second component having a functionality code segment and a first user interface code segment.

(2) Ribitzky, Evans do not teach a uniform user interface to communication patient data between the functionality code segments of the components and the uniform user interface such that the patient data of the functionality code segments of the first and second components are formatted with the same look and feel.

(3) Ribitzky and Evans are not combinable.

(B) With respect to Applicant first argument, Examiner respectfully submitted that Evans discloses "The control type 650 identifies the type of user interaction, such as edit, pick list, button, static text, etc. to be used when accepting data from a user upon request. That is, when the case manager system 125 prompts the case manager 115 for data specifying the patient's name, the activities engine 415 will present an edit control that will accept a free-form text string (which may be identified as control type "3.") The static text 652 identifies the string of text that will be presented to the case manager 115 to label the control 650 on the output device 270 when viewing or requesting input of data. Should the control type be a control requiring text, for example, a button, control text 654 is the text presented to the user at run-time. For example, if a search on a set of codes is configured on a button, the control text might be "search code." The number of lines 656 describes the number of lines to display for data entry. For example, for a large field of 2000 bytes, the number of lines 656 may be set to "5" or "6" to enable the user to view more text without scrolling. Lastly, the action profile 658

references a segment of the program initialization file that may contain additional configuration information, for example, ranges for numeric values. FIG. 6C illustrates a field description table 660, related to the activity template fields table 640 using the field name 648 as the key field. Field description table 660 includes columns for the field name 662, an abbreviated label 664, a short label 666, a long label 668, a location type 670, a location name 670 and a real name 674. Thus, when the activity engine 415 provides the case manager 115 with a display screen for, for example, the field medical dose (FIG. 6B, row 12), the activities engine 415 will locate related field description table 660 (FIG. 6C), will identify row 1 as having the same field name 662, and will provide a user interface as specified by the columns. That is, if the activities engine 415 requests a long label to fully describe the data being viewed, requested, etc., the activities engine 415 will locate column 668, and will retrieve the label "Medication Dosage." Alternatively, should the activities engine 415 request only a short label, then the activities engine 415 will locate column 666, and will retrieve the label "Dosage" which correspond to Applicant claimed feature. Therefore, Applicant's argument is not persuasive and the rejection is hereby sustained.

(C) With respect to Applicant second argument, Examiner respectfully submitted that Ribitzky discloses "Once a user selects a particular object (e.g., selecting a particular patient object within the client component), that object is instantiated 316. Generally, instantiation involves execution of a method by the object that submits a query to the relational data server 210 for execution by a RDBMS 214. The RDBMS 214 sends the

Art Unit: 3626

result of that query in the form of a group or stream of data elements to the object.

When the object receives the data elements, it formats them (e.g., arranges the data in a list, produces a graphical timeline, etc.) and presents it to the user. Components may execute these same methods to provide lists of data representing individual objects for the user to select from a GUI in step 310. The instantiated object is displayed to the user in graphic form and the software application waits 318, 320 for the user to drag the object, likely by selecting the object display with a mouse and dragging the object display across the screen, onto another component. Dragging an object to another component generates a report 322 showing the relationship between that object and that component. For example, dragging a client object representing a particular patient to the problems component will generate a report showing all of the problems reported by that patient. These are problem `objects`. The user could, for example, activate one of those problem objects to view detailed reports on that particular problem for that patient or drag and drop the problem object on the client component to generate a report showing all clients who had the same problem. Providing a visual display of a number of components and manipulating those components by clicking, dragging and dropping forms the basis of a "user-centric" interface architecture supported by the DBI. Of course clicking, dragging and dropping commonly performed using a mouse at a personal computer or work station are only one way to implement the user-centric architecture of the DBI visual interface. A voice recognition interface, for example, could also be employed to allow a user to speak the name of the component to instantiate, select a particular object to instantiate, and manipulate that object by speaking the

name of the component that the user wishes the object to interact with. Other elements of the user-centric architecture include commonality of interface features to perform common functions with different components. For example, Visual User Interfaces for selection of a particular object from each component can be similar, each using drop down lists or menus to allow selection of a name for a particular field, and using the same, for example drag and drop procedures for manipulating any object to interact with any component. In addition, the use of the "H" model can provide intuitive visual clues that allow even a novice information technology user to readily use and manipulate objects and components representing elements of the business model and underlying data structures with minimal training" which correspond to Applicant's claimed feature. Therefore, Applicant's argument is not persuasive and the rejection is hereby sustained.

(D) With respect to Applicant's third argument, Examiner respectfully submits that obviousness is determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *In re Hedges*, 783 F.2d 1038, 1039, 228 USPQ 685,686 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785,788 (Fed. Cir. 1984); and *In re Rinehart*, 531 F.2d 1048, 1052, 189 USPQ 143,147 (CCPA 1976). Using this standard, the Examiner respectfully submits that he has at least satisfied the burden of presenting a *prima facie* case of obviousness, since he has presented evidence of corresponding claim elements in the prior art and has expressly articulated the combinations and the motivations for combinations that fairly suggest Applicant's claimed invention. Moreover, in the instant case, the Examiner respectfully notes that each and every motivation to combine the applied references are accompanied by

select portions of the respective reference(s) which specifically support that particular motivation and/or an explanation based on the logic and scientific reasoning of one ordinarily skilled in the art at the time of the invention that support a holding of obviousness. As such, it is NOT seen that the Examiner's combination of references is unsupported by the applied prior art of record. Rather, it is respectfully submitted that explanation based on the logic and scientific reasoning of one ordinarily skilled in the art at the time of the invention that support a holding of obviousness has been adequately provided by the motivations and reasons indicated by the Examiner, *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter., 4/22/93).

In response to Applicant's concern that the Examiner have ignored the mandate of the modern case law which clearly and explicitly hold that in order for the references to be combined in that the references must explicitly teach or suggest every element of the combination as well as how to use such a combination, the Examiner respectfully submits that Applicant misinterprets the some of the case law cited. For example, the Court in *In re Fritch* stated "[The Examiner] can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references. [emphasis added]" *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ 2d 1596, 1598 (Fed. Cir. 1988) (citing *In re Lalu*, 747 F.2d 703, 705, 223 USPQ 1257, 1258 (Fed. Cir. 1988)). Each applied reference does not expressly suggest combination with the other respective references; however, the Examiner has shown that motivation for combining the references existed in the prior art. The "modification" referred to in *In re Fritch* involves extensive changes to the primary references. Such is not the case in the present combinations, where all modifications proposed by the Examiner are specifically taught by the references and that knowledge generally available to one of ordinary skill

in the art. Therefore, the combination of references is proper and the rejection maintained.

In addition, the Examiner recognizes that references cannot be arbitrarily altered or modified and that there must be some reason why one skilled in the art would be motivated to make the proposed modifications. However, although the Examiner agrees that the motivation or suggestion to make modifications must be articulated, it is respectfully contended that there is no requirement that the motivation to make modifications must be expressly articulated within the references themselves. References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures, *In re Bozek*, 163 USPQ 545 (CCPA 1969).

The Examiner is concerned that Applicant apparently ignores the mandate of the numerous court decisions supporting the position given above. The issue of obviousness is not determined by what the references expressly state but by what they would reasonably suggest to one of ordinary skill in the art, as supported by decisions in *In re DeLisle* 406 Fed 1326, 160 USPQ 806; *In re Kell, Terry and Davies* 208 USPQ 871; and *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ 2d 1596, 1598 (Fed. Cir. 1988) (citing *In re Lalu*, 747 F.2d 703, 705, 223 USPQ 1257, 1258 (Fed. Cir. 1988)). Further, it was determined in *In re Lamberti et al*, 192 USPQ 278 (CCPA) that:

- (i) obviousness does not require absolute predictability;
- (ii) non-preferred embodiments of prior art must also be considered; and
- (iii) the question is not express teaching of references, but what they would suggest.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanel Frenel whose telephone number is 571-272-6769. The examiner can normally be reached on 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

V.F
V.F

December 23, 2005


JOSEPH THOMAS
CENTRAL PATENT EXAMINER
TECHNOLOGY CENTER 3600